

**CONSTRUCTION AND FIRE CODE RELATED
AMENDMENTS**

2010 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill modifies the Utah Fire Prevention and Safety Act and Utah Uniform Building Standards Act to address the process for adopting and modifying a state construction code or state fire code.

Highlighted Provisions:

This bill:

- clarifies the enforcement of the state fire code;
- addresses the adoption and amendment process for a state fire code;
- addresses the adoption and amendment process for a state construction code;
- provides for funding of education related to codes being considered; and
- makes technical and conforming changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 26-15-3**, as last amended by Laws of Utah 2009, Chapter 339
- 53-7-102**, as renumbered and amended by Laws of Utah 1993, Chapter 234
- 53-7-103**, as last amended by Laws of Utah 2002, Chapter 301
- 53-7-104**, as last amended by Laws of Utah 2007, Chapter 329
- 53-7-106**, as last amended by Laws of Utah 2009, Chapter 339
- 53-7-202**, as last amended by Laws of Utah 2009, Chapter 339
- 53-7-204**, as last amended by Laws of Utah 2009, Chapter 339
- 53-7-209**, as last amended by Laws of Utah 2009, Chapter 339

32 **53A-20c-102**, as last amended by Laws of Utah 2008, Chapter 382

33 **58-55-305**, as last amended by Laws of Utah 2009, Chapter 228

34 **58-56-3**, as last amended by Laws of Utah 2009, Chapter 339

35 **58-56-4**, as last amended by Laws of Utah 2009, Chapter 339

36 **58-56-5**, as last amended by Laws of Utah 2009, Chapter 339

37 **58-56-6**, as last amended by Laws of Utah 2009, Chapter 339

38 **58-56-7**, as last amended by Laws of Utah 2009, Chapter 339

39 **58-56-9**, as last amended by Laws of Utah 2002, Chapter 75

40 **58-56-9.3**, as last amended by Laws of Utah 2008, Chapter 382

41 **58-56-12**, as last amended by Laws of Utah 2004, Chapter 75

42 **58-56-13**, as enacted by Laws of Utah 1990, Chapter 293

43 **58-56-14**, as enacted by Laws of Utah 1990, Chapter 293

44 **58-56-15**, as last amended by Laws of Utah 2004, Chapter 75

45 **58-56-17.5**, as enacted by Laws of Utah 1997, Chapter 385

46 **58-56-20**, as last amended by Laws of Utah 2009, Chapters 50 and 129

47 **58-56-21**, as enacted by Laws of Utah 2009, Chapter 129

48 REPEALS:

49 **53-7-205**, as last amended by Laws of Utah 2001, Chapter 25

50

51 *Be it enacted by the Legislature of the state of Utah:*

52 Section 1. Section **26-15-3** is amended to read:

53 **26-15-3. Department to advise regarding the plumbing code.**

54 (1) The department shall advise the Division of Occupational and Professional
55 Licensing and the Uniform Building Code Commission with respect to the adoption of a state
56 construction code [and] under Section 58-56-4, including providing recommendations as to:

57 (a) a specific edition of a plumbing code adopted by a nationally recognized code
58 authority [~~to be administered by the Division of Occupational and Professional Licensing~~]; and

59 (b) any amendments to [~~that code as provided for under Section 58-56-5~~] a nationally
60 recognized code.

61 (2) The department may enforce the plumbing code adopted [~~by the Division of~~
62 ~~Occupational and Professional Licensing~~] under Section 58-56-4. [~~The provisions of~~]

(3) Section 58-56-9 ~~[do]~~ does not apply to health inspectors acting under this section.

Section 2. Section **53-7-102** is amended to read:

53-7-102. Definitions.

As used in this chapter:

(1) "Board" means the Utah Fire Prevention Board created in Section 53-7-203, except as provided in Part 3, Liquefied Petroleum Gas Act.

~~[(1)]~~ (2) "Director" means the state fire marshal appointed in accordance with Section 53-7-103.

~~[(2)]~~ (3) "Division" means the State Fire Marshal Division created in Section 53-7-103.

~~[(3)]~~ (4) "Fire officer" means:

(a) the state fire marshal;

(b) the state fire marshal's deputies or salaried assistants;

(c) the fire chief or fire marshal of any county, city, or town fire department;

(d) the fire officer of any fire district;

(e) the fire officer of any special service district organized for fire protection purposes;

and

(f) authorized personnel of any of the persons specified in Subsections (4)(a) through (e).

(5) "Legislative action" includes legislation that:

(a) adopts a state fire code;

(b) amends a state fire code; or

(c) repeals one or more provisions of a state fire code.

(6) "State fire code" means the code adopted under Section 53-7-106.

~~[(4)]~~ (7) "State fire marshal" means the fire marshal appointed director by the commissioner under Section 53-7-103.

Section 3. Section **53-7-103** is amended to read:

53-7-103. State Fire Marshal Division -- Creation -- State fire marshal -- Appointment, qualifications, duties, and compensation.

(1) There is created within the department the State Fire Marshal Division.

(2) (a) The director of the division is the state fire marshal, who shall be appointed by the commissioner upon the recommendation of the Utah Fire Prevention Board created in

Section 53-7-203 and with the approval of the governor.

(b) The state fire marshal is the executive and administrative head of the division, and shall be qualified by experience and education to:

(i) enforce the state fire code;

(ii) enforce rules made under this chapter; and

(iii) perform the duties prescribed by the commissioner.

(3) The state fire marshal acts under the supervision and control of the commissioner and may be removed from ~~[his]~~ the position at the will of the commissioner.

(4) The state fire marshal shall:

(a) enforce the state fire code rules made under this chapter ~~[as provided]~~ in accordance with Section 53-7-104;

(b) complete the duties assigned by the commissioner;

(c) examine plans and specifications for school buildings, as required by Section 53A-20-104;

(d) approve criteria established by the state superintendent for building inspectors;

(e) promote and support injury prevention public education programs; and

(f) perform all other duties provided in this chapter.

(5) The state fire marshal shall receive compensation as provided by Title 67, Chapter 19, Utah State Personnel Management Act.

Section 4. Section **53-7-104** is amended to read:

53-7-104. Enforcement of state fire code and rules -- Division of authority and responsibility.

(1) The authority and responsibility for enforcing the state fire code and rules made under this chapter is divided as provided in this section.

(2) The fire officers of any city or county shall enforce the state fire code and rules of the state fire marshal in their respective areas.

(3) The state fire marshal may enforce the state fire code and rules in:

(a) areas outside of corporate cities, fire protection districts, and other local districts or special service districts organized for fire protection purposes; ~~[and]~~

(b) state-owned property, school district owned property, and privately owned property used for schools located within corporate cities and county fire protection districts, asylums,

mental hospitals, hospitals, sanitariums, homes for the aged, residential health-care facilities, children's homes or institutions, or similar institutional type occupancy of any capacity[-]; and ~~[(4)] (c) [The state fire marshal may enforce the rules in]~~ corporate cities, counties, fire protection districts, and special service districts organized for fire protection purposes upon receiving a request from the chief fire official or the local governing body.

Section 5. Section **53-7-106** is amended to read:

53-7-106. Adoption of state fire code.

(1) ~~[(A)]~~ (a) The state fire code is:

(i) a code promulgated by a nationally recognized code authority [and] that is adopted by the Legislature under [Section 58-56-4 is the state fire code,] this section with any modifications; and

(ii) to which cities, counties, fire protection districts, and the state shall adhere in safeguarding life and property from the hazards of fire and explosion.

(b) On and after May 12, 2009, the state fire code is the state fire code in effect on May 11, 2009, until in accordance with this section:

(i) a new state fire code is adopted; or

(ii) one or more provisions of the state fire code are amended or repealed in accordance with this section.

(c) A provision of the state fire code may be applicable to:

(i) the entire state; or

(ii) within a city, county, or fire protection district.

(2) (a) The Legislature shall adopt a state fire code by enacting legislation that adopts a nationally recognized fire code with any modifications.

(b) Legislation enacted under this Subsection (2) shall state that it takes effect on the July 1 after the day on which the legislation is enacted, unless otherwise stated in the legislation.

(c) Subject to Subsection (5), a state fire code adopted by the Legislature is the state fire code until in accordance with this section the Legislature adopts a new state fire code by:

(i) adopting a new state fire code in its entirety; or

(ii) amending or repealing one or more provisions of the state fire code.

(3) (a) The board shall by no later than November 30 of each year recommend to the

156 Business and Labor Interim Committee whether the Legislature should:
157 (i) amend or repeal one or more provisions of the state fire code; or
158 (ii) in a year of a regularly scheduled update of a nationally recognized fire code, adopt
159 with any modifications the nationally recognized fire code.
160 (b) The board may recommend legislative action related the state fire code:
161 (i) on its own initiative; or
162 (ii) upon the receipt of a request by a city, county, or fire protection district that the
163 board recommend legislative action related to the state fire code.
164 (c) Within 45 days after receipt of a request under Subsection (3)(b), the board shall
165 direct the division to convene an informal hearing concerning the request.
166 (d) The board shall conduct a hearing under this section in accordance with the rules of
167 the board.
168 (e) The board shall decide whether to include in the report required under Subsection
169 (3)(a) whether to recommend the legislative action raised by a request.
170 (f) Within 15 days following the completion of a hearing of the board under this
171 Subsection (3), the board shall direct the division to notify the entity that made the request of
172 the board's decision regarding the request. The division shall provide the notice:
173 (i) in writing; and
174 (ii) in a form prescribed by the board.
175 (4) If the Business and Labor Interim Committee decides to recommend legislative
176 action to the Legislature, the Business and Labor Interim Committee shall prepare legislation
177 for consideration by the Legislature in the next general session that if passed by the Legislature
178 would:
179 (a) adopt a new state fire code in its entirety; or
180 (b) amend or repeal one or more provisions of the state fire code.
181 (5) (a) Notwithstanding Subsection (3), the board may, in accordance with Title 63G,
182 Chapter 3, Utah Administrative Rulemaking Act, amend a state fire code if the board
183 determines that waiting for legislative action in the next general legislative session would:
184 (i) cause an imminent peril to the public health, safety, or welfare; or
185 (ii) place a person in violation of federal or other state law.
186 (b) If the board amends a state fire code in accordance with this Subsection (5), the

187 board shall:

188 (i) publish the state fire code with the amendment; and

189 (ii) notify the Business and Labor Interim Committee of the adoption, including a copy
190 of an analysis by the board identifying specific reasons and justifications for its findings.

191 (c) If not formally adopted by the Legislature at its next annual general session, an
192 amendment to a state fire code adopted under this Subsection (5) is repealed on the July 1
193 immediately following the next annual general session that follows the adoption of the
194 amendment.

195 ~~[(2)]~~ (6) (a) The legislative body of a political subdivision may make ordinances that
196 are more restrictive in its fire code requirements than the state fire code, in order to meet the
197 public safety needs of the political subdivision.

198 (b) The legislative body of a political subdivision shall provide to the ~~[Utah Fire~~
199 ~~Prevention Board]~~ board one copy of each ordinance enacted under this Subsection ~~[(2)(a)]~~ (6).

200 (c) The state fire marshal shall keep an indexed copy of the ordinances.

201 ~~(d) [Copies of the ordinances are available from the state fire marshal]~~ The state fire
202 marshal shall make a copy of an ordinance adopted under this Subsection (6) available on
203 request.

204 Section 6. Section **53-7-202** is amended to read:

205 **53-7-202. Definitions.**

206 As used in this part:

207 (1) "Agricultural and wildlife fireworks" means a class C dangerous explosive that:

208 (a) uses sound or light when deployed; and

209 (b) is designated to prevent crop damage or unwanted animals from entering a
210 specified area.

211 ~~[(2) "Board" means the Utah Fire Prevention Board created in Section 53-7-203.]~~

212 ~~[(3)]~~ (2) "Class A explosive" means a division 1.1 or 1.2 explosive as defined by the
213 ~~[U.S.]~~ United States Department of Transportation in Part 173, Title 49, Code of Federal
214 Regulations.

215 ~~[(4)]~~ (3) "Class B explosive" means a division 1.2 or 1.3G explosive as defined by the
216 ~~[U.S.]~~ United States Department of Transportation in Part 173, Title 49, Code of Federal
217 Regulations.

218 ~~[(5)]~~ (4) "Class C explosive" means a division 1.4G explosive as defined by the ~~[U.S.]~~
219 United States Department of Transportation in Part 173, Title 49, Code of Federal Regulations.

220 ~~[(6)]~~ (5) (a) "Class C common state approved explosive" means a class C explosive
221 that is:

222 (i) a cardboard or heavy paper cylindrical tube or cone that:

223 (A) produces a shower of color and sparks that reach a maximum height of 15 feet;

224 (B) may whistle or pop; and

225 (C) is not designed to explode or leave the ground;

226 (ii) a pyrotechnic wheel device that:

227 (A) may be attached to a post or tree; and

228 (B) contains up to six "driver" units or tubes;

229 (iii) any device that:

230 (A) spins, jumps, or emits popping sounds when placed on the ground;

231 (B) does not exceed a height of 15 feet when discharged; and

232 (C) does not travel laterally more than ten feet on a smooth surface when discharged;

233 (iv) a morning glory, suzuki, or flutter sparkler; and

234 (v) a single tube day type parachute that does not carry any flare or flame upon descent.

235 (b) "Class C common state approved explosive" does not mean:

236 (i) class C dangerous explosives; or

237 (ii) exempt explosives.

238 ~~[(7)]~~ (6) (a) "Class C dangerous explosive" means a class C explosive that is:

239 (i) a firecracker, cannon cracker, salute, cherry bomb, or other similar explosive;

240 (ii) a skyrocket or any device other than a model rocket that uses combustible or
241 explosive material and rises more than 15 feet when discharged;

242 (iii) a roman candle or other device that discharges balls of fire over 15 feet in height;

243 (iv) a tube or cone aerial firework that propels comets, shells, salutes, flash shells, or
244 similar devices more than 15 feet into the air; and

245 (v) a chaser, whistler, or other device that darts or travels more than ten feet laterally
246 on a smooth surface or exceeds 15 feet in height when discharged.

247 (b) A "class C dangerous explosive" does not mean:

248 (i) class C common state approved explosives; or

249 (ii) exempt explosives.

250 ~~[(8)]~~ (7) "Display fireworks" means an aerial shell, salute, flash shell, comet, sky battle,
251 mine, and any similar class C explosive or class B explosive.

252 ~~[(9)]~~ (8) (a) "Display operator" means the person who purchases and is responsible for
253 setting up and discharging display fireworks.

254 (b) "Display operator" does not mean a fire department.

255 ~~[(10)]~~ (9) "Exempt explosive" means a model rocket, toy pistol cap, emergency signal
256 flare, snake or glow worm, party popper, trick noisemaker, match, and wire sparkler under 12
257 inches in length.

258 ~~[(11)]~~ (10) (a) "Fireworks" means:

259 (i) class C explosives;

260 (ii) class C dangerous explosives; and

261 (iii) class C common state approved explosives.

262 (b) "Fireworks" does not mean:

263 (i) exempt explosives;

264 (ii) class A explosives; and

265 (iii) class B explosives.

266 ~~[(12)]~~ (11) "Importer" means a person who brings class B or class C explosives into
267 Utah for the general purpose of resale within the state or exportation to other states.

268 ~~[(13)]~~ (12) (a) "Pyrotechnic" means any composition or device manufactured or used to
269 produce a visible or audible effect by combustion, deflagration, or detonation.

270 (b) "Pyrotechnic" does not mean exempt explosives.

271 ~~[(14)]~~ (13) "Retail seller" means a person who sells class C common state approved
272 explosives to the public during the period authorized under Section 53-7-225.

273 ~~[(15)] "State fire code" means a nationally recognized fire code administered by the~~
274 ~~Utah Fire Prevention Board pursuant to Section 53-7-204.]~~

275 ~~[(16)]~~ (14) "Trick noisemaker" includes a:

276 (a) tube or sphere containing pyrotechnic composition that produces a white or colored
277 smoke as its primary effect when ignited; and

278 (b) device that produces a small report intended to surprise the user, including a:

279 (i) "booby trap," which is a small tube with a string protruding from both ends that

280 ignites the friction sensitive composition in the tube when the string is pulled;

281 (ii) "snapper," which is a small paper-wrapped device containing a minute quantity of
282 explosive composition coated on bits of sand that explodes producing a small report;

283 (iii) "trick match," which is a kitchen or book match coated with a small quantity of
284 explosive or pyrotechnic composition that produces a small shower of sparks when ignited;

285 (iv) "cigarette load," which is a small wooden peg coated with a small quantity of
286 explosive composition that produces a small report when the cigarette is ignited; and

287 (v) "auto burglar alarm," which is a tube that:

288 (A) contains pyrotechnic composition that produces a loud whistle and smoke when
289 ignited;

290 (B) may contain a small quantity of explosive to produce a small explosive noise; and

291 (C) is ignited by a squib.

292 [(17)] (15) "Unclassified fireworks" means any of the following:

293 (a) a pyrotechnic device that is used, given away, or offered for sale, that has not been
294 tested, approved, and classified by the [U.S.] United States Department of Transportation;

295 (b) an approved device that has been altered or redesigned since obtaining approval by
296 the [U.S.] United States Department of Transportation; and

297 (c) a pyrotechnic device that is being tested by a manufacturer, importer, or wholesaler
298 before receiving approval by the [U.S.] United States Department of Transportation.

299 [(18)] (16) "Wholesaler" means any of the following:

300 (a) a person who sells class C common state approved explosives to a retailer; and

301 (b) a person who sells class B explosives or class C dangerous explosives for display
302 use.

303 Section 7. Section **53-7-204** is amended to read:

304 **53-7-204. Duties of Utah Fire Prevention Board -- Local administrative duties.**

305 (1) The board shall:

306 (a) administer the state fire code as the standard in the state;

307 [(a)] (b) subject to the state fire code, make rules in accordance with Title 63G,

308 Chapter 3, Utah Administrative Rulemaking Act:

309 [(i) administer a nationally recognized fire code and the specific edition of that fire
310 code as the state fire code to be used as the standard;]

311 ~~[(iii)]~~ (i) establishing minimum standards for the prevention of fire and for the
312 protection of life and property against fire and panic in any:

313 (A) publicly owned building, including all public and private schools, colleges, and
314 university buildings;

315 (B) building or structure used or intended for use as an asylum, a mental hospital, a
316 hospital, a sanitarium, a home for the aged, an assisted living facility, a children's home or day
317 care center, or any similar institutional type occupancy of any capacity; and

318 (C) place of assemblage where 50 or more persons may gather together in a building,
319 structure, tent, or room for the purpose of amusement, entertainment, instruction, or education;

320 ~~[(iii)]~~ (ii) establishing safety and other requirements for placement and discharge of
321 display fireworks ~~[based upon]~~ on the basis of:

322 (A) the ~~[specific edition of the nationally recognized fire code adopted by the~~
323 ~~Legislature under Section 58-56-4]~~ state fire code; and

324 (B) relevant publications of the National Fire Protection Association;

325 ~~[(iv)]~~ (iii) establishing minimum safety standards for retail storage, handling, and sale
326 of class C common state approved explosives;

327 ~~[(v)]~~ (iv) defining methods to establish proof of competence to place and discharge
328 display fireworks;

329 ~~[(vi)]~~ (v) for deputizing qualified persons to act as deputy fire marshals, and to secure
330 special services in emergencies;

331 ~~[(vii)]~~ (vi) implementing ~~[Sections 53-7-106 and 53-7-205]~~ Section 53-7-106;

332 ~~[(viii)]~~ (vii) setting guidelines for use of funding;

333 ~~[(ix)]~~ (viii) establishing criteria for training and safety equipment grants for fire
334 departments enrolled in firefighter certification; and

335 ~~[(x)]~~ (ix) establishing minimum ongoing training standards for hazardous materials
336 emergency response agencies;

337 ~~[(b)]~~ (c) recommend to the commissioner a state fire marshal;

338 ~~[(c)]~~ (d) develop policies under which the state fire marshal and the state fire marshal's
339 authorized representatives will perform;

340 ~~[(d)]~~ (e) provide for the employment of field assistants and other salaried personnel as
341 required;

342 ~~[(e)]~~ (f) prescribe the duties of the state fire marshal and the state fire marshal's
 343 authorized representatives;
 344 ~~[(f)]~~ (g) establish a statewide fire prevention, fire education, and fire service training
 345 program in cooperation with the Board of Regents;
 346 ~~[(g)]~~ (h) establish a statewide fire statistics program for the purpose of gathering fire
 347 data from all political subdivisions of the state;
 348 ~~[(h)]~~ (i) establish a fire academy in accordance with Section 53-7-204.2;
 349 ~~[(i)]~~ (j) coordinate the efforts of all people engaged in fire suppression in the state;
 350 ~~[(j)]~~ (k) work aggressively with the local political subdivisions to reduce fire losses;
 351 ~~[(k)]~~ (l) regulate the sale and servicing of portable fire extinguishers and automatic fire
 352 suppression systems in the interest of safeguarding lives and property;
 353 ~~[(l)]~~ (m) establish a certification program for persons who inspect and test automatic
 354 fire sprinkler systems;
 355 ~~[(m)]~~ (n) establish a certification program for persons who inspect and test fire alarm
 356 systems;
 357 ~~[(n)]~~ (o) establish a certification for persons who provide response services regarding
 358 hazardous materials emergencies; and
 359 ~~[(o)]~~ (p) in accordance with Section ~~[58-56-4, make a]~~ 53-7-106 report to the Business
 360 and Labor Interim Committee ~~[by:]~~.
 361 ~~[(i) no later than November 30 of each year recommending any amendments to the~~
 362 ~~currently adopted fire code; and]~~
 363 ~~[(ii) no later than November 30 in a year of a regularly scheduled update cycle of a~~
 364 ~~nationally promulgated fire code recommending the adoption of, amendment to, or repeal of~~
 365 ~~the updated nationally promulgated fire code.]~~
 366 (2) The board may incorporate in its rules by reference, in whole or in part~~;~~;
 367 (a) the state fire code; or
 368 (b) subject to the state fire code, a nationally recognized and readily available
 369 ~~[standards and codes adopted by the Legislature]~~ standard pertaining to the protection of life
 370 and property from fire, explosion, or panic.
 371 ~~[(3)-(a) The board shall recommend to the Legislature in accordance with Subsection~~
 372 ~~(1)(o) amendments to the state fire code adopted by the Legislature in accordance with Section~~

373 ~~58-56-7.]~~

374 ~~[(b) The amendments, as adopted by the Legislature, may be applicable to the entire~~
375 ~~state or within a city, county, or fire protection district.]~~

376 (4) The following functions shall be administered locally by a city, county, or fire
377 protection district:

378 (a) issuing permits, including open burning permits pursuant to Sections 11-7-1 and
379 19-2-114;

380 (b) creating a local board of appeals in accordance with the state fire code; and

381 (c) establishing, modifying, or deleting fire flow and water supply requirements.

382 Section 8. Section **53-7-209** is amended to read:

383 **53-7-209. Inspection of buildings by officials.**

384 (1) A fire chief or officer may enter ~~[any]~~ a building or premises not used as a private
385 dwelling at any reasonable hour to inspect the building or premises and enforce the rules made
386 under this part~~[-including]~~ and the state fire code ~~[adopted under Section 58-56-4]~~.

387 (2) The owner, lessee, manager, or operator of ~~[any]~~ a building or premises not used as
388 a private dwelling shall permit inspections under this section.

389 Section 9. Section **53A-20c-102** is amended to read:

390 **53A-20c-102. Energy Efficiency Fund -- Contents -- Use of fund monies.**

391 (1) As used in this section:

392 (a) "Board" means the Board of the Utah Geological Survey.

393 (b) "Energy code" means the energy efficiency code adopted ~~[by the Division of~~
394 ~~Occupational and Professional Licensing]~~ under Section 58-56-4.

395 (c) "Energy efficiency project" means:

396 (i) for existing buildings, a retrofit to improve energy efficiency; or

397 (ii) for new buildings, an enhancement to improve energy efficiency beyond the
398 minimum required by the energy code.

399 (d) "Fund" means the Energy Efficiency Fund created by this part.

400 (2) There is created a revolving loan fund known as the Energy Efficiency Fund.

401 (3) The fund shall consist of:

402 (a) monies appropriated to it by the Legislature;

403 (b) monies received for the repayment of loans made from the fund;

(c) monies made available to the state for energy efficiency from any source; and

(d) interest earned on the fund.

(4) (a) The board shall make loans from the fund only to school districts to finance energy efficiency projects in school district buildings, including paying the costs of construction, engineering, investigation, inspection, and other related expenses.

(b) The board may not:

(i) make loans from the fund to finance a school district's compliance with the energy code in the construction of a new building;

(ii) make a loan from the fund with a term of less than two years or more than 12 years; or

(iii) make loans from the fund to any entity other than a school district.

(5) (a) (i) Each school district seeking a loan shall submit an application to the board in the form and containing the information that the board requires, which shall include the plans and specifications for the proposed energy efficiency project.

(ii) In the application, the school district may request a loan to cover all or part of the cost of an energy efficiency project.

(b) If an application is rejected, the board shall notify the applicant stating the reasons for the rejection.

(6) (a) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the board shall make rules establishing criteria for:

(i) determining eligibility for loans; and

(ii) determining appropriate priorities among projects.

(b) In making rules governing determining priorities for eligible projects, the board may consider:

(i) possible additional sources of revenue;

(ii) the feasibility and practicality of the project;

(iii) the energy savings attributable to an eligible energy efficiency project;

(iv) the annual energy cost savings attributable to an eligible energy efficiency project;

(v) the projected energy cost payback of an eligible energy efficiency project;

(vi) the financial need of the public facility owner;

(vii) the environmental and other benefits to the state and local community attributable

to an eligible energy efficiency project; and

(viii) the availability of federal funds for the project.

(7) (a) In approving a project, the board shall:

(i) review the loan application and the plans and specifications for the project;

(ii) determine whether or not to grant the loan by applying its eligibility criteria; and

(iii) if the loan is granted, prioritize the project by applying its priority criteria.

(b) The board may condition approval of a loan request and the availability of funds on assurances from the school district that the board considers necessary to ensure that:

(i) the proceeds of the loan will be used to pay the cost of the project; and

(ii) the project will be completed.

(8) Employees of the state energy program shall serve as staff to the board when it performs the duties established in this section.

Section 10. Section **58-55-305** is amended to read:

58-55-305. Exemptions from licensure.

(1) In addition to the exemptions from licensure in Section 58-1-307, the following persons may engage in acts or practices included within the practice of construction trades, subject to the stated circumstances and limitations, without being licensed under this chapter:

(a) an authorized representative of the United States government or an authorized employee of the state or any of its political subdivisions when working on construction work of the state or the subdivision, and when acting within the terms of the person's trust, office, or employment;

(b) a person engaged in construction or operation incidental to the construction and repair of irrigation and drainage ditches of regularly constituted irrigation districts, reclamation districts, and drainage districts or construction and repair relating to farming, dairying, agriculture, livestock or poultry raising, metal and coal mining, quarries, sand and gravel excavations, well drilling, as defined in Section 73-3-25, hauling to and from construction sites, and lumbering;

(c) public utilities operating under the rules of the Public Service Commission on construction work incidental to their own business;

(d) sole owners of property engaged in building:

(i) no more than one residential structure per year and no more than three residential

structures per five years on their property for their own noncommercial, nonpublic use; except, a person other than the property owner or individuals described in Subsection (1)(e), who engages in building the structure must be licensed under this chapter if the person is otherwise required to be licensed under this chapter; or

(ii) structures on their property for their own noncommercial, nonpublic use which are incidental to a residential structure on the property, including sheds, carports, or detached garages;

(e) (i) a person engaged in construction or renovation of a residential building for noncommercial, nonpublic use if that person:

(A) works without compensation other than token compensation that is not considered salary or wages; and

(B) works under the direction of the property owner who engages in building the structure; and

(ii) as used in this Subsection (1)(e), "token compensation" means compensation paid by a sole owner of property exempted from licensure under Subsection (1)(d) to a person exempted from licensure under this Subsection (1)(e), that is:

(A) minimal in value when compared with the fair market value of the services provided by the person;

(B) not related to the fair market value of the services provided by the person; and

(C) is incidental to the providing of services by the person including paying for or providing meals or refreshment while services are being provided, or paying reasonable transportation costs incurred by the person in travel to the site of construction;

(f) a person engaged in the sale or merchandising of personal property that by its design or manufacture may be attached, installed, or otherwise affixed to real property who has contracted with a person, firm, or corporation licensed under this chapter to install, affix, or attach that property;

(g) a contractor submitting a bid on a federal aid highway project, if, before undertaking construction under that bid, the contractor is licensed under this chapter;

(h) (i) a person engaged in the alteration, repair, remodeling, or addition to or improvement of a building with a contracted or agreed value of less than \$3,000, including both labor and materials, and including all changes or additions to the contracted or agreed

497 upon work; and

498 (ii) notwithstanding Subsection (1)(h)(i) and except as otherwise provided in this
499 section:

500 (A) work in the plumbing and electrical trades on a Subsection (1)(h)(i) project within
501 any six month period of time:

502 (I) must be performed by a licensed electrical or plumbing contractor, if the project
503 involves an electrical or plumbing system; and

504 (II) may be performed by a licensed journeyman electrician or plumber or an individual
505 referred to in Subsection (1)(h)(ii)(A)(I), if the project involves a component of the system
506 such as a faucet, toilet, fixture, device, outlet, or electrical switch;

507 (B) installation, repair, or replacement of a residential or commercial gas appliance or a
508 combustion system on a Subsection (1)(h)(i) project must be performed by a person who has
509 received certification under Subsection 58-55-308(2) except as otherwise provided in
510 Subsection 58-55-308(2)(d) or 58-55-308(3);

511 (C) installation, repair, or replacement of water-based fire protection systems on a
512 Subsection (1)(h)(i) project must be performed by a licensed fire suppression systems
513 contractor or a licensed journeyman plumber;

514 (D) work as an alarm business or company or as an alarm company agent shall be
515 performed by a licensed alarm business or company or a licensed alarm company agent, except
516 as otherwise provided in this chapter;

517 (E) installation, repair, or replacement of an alarm system on a Subsection (1)(h)(i)
518 project must be performed by a licensed alarm business or company or a licensed alarm
519 company agent;

520 (F) installation, repair, or replacement of a heating, ventilation, or air conditioning
521 system (HVAC) on a Subsection (1)(h)(i) project must be performed by an HVAC contractor
522 licensed by the division;

523 (G) installation, repair, or replacement of a radon mitigation system or a soil
524 depressurization system must be performed by a licensed contractor; and

525 (H) if the total value of the project is greater than \$1,000, the person shall file with the
526 division a one-time affirmation, subject to periodic reaffirmation as established by division
527 rule, that the person has:

528 (I) public liability insurance in coverage amounts and form established by division
529 rule; and

530 (II) if applicable, workers compensation insurance which would cover an employee of
531 the person if that employee worked on the construction project;

532 (i) a person practicing a specialty contractor classification or construction trade which
533 the director does not classify by administrative rule as significantly impacting the public's
534 health, safety, and welfare;

535 (j) owners and lessees of property and persons regularly employed for wages by owners
536 or lessees of property or their agents for the purpose of maintaining the property, are exempt
537 from this chapter when doing work upon the property;

538 (k) (i) a person engaged in minor plumbing work incidental to the replacement or
539 repair of a fixture or an appliance in a residential or small commercial building, or structure
540 used for agricultural use, as defined in Section ~~[58-56-4]~~ 58-56-3, provided that no
541 modification is made to:

542 (A) existing culinary water, soil, waste, or vent piping; or

543 (B) a gas appliance or combustion system; and

544 (ii) except as provided in Subsection (1)(e), installation for the first time of a fixture or
545 an appliance is not included in the exemption provided under Subsection (1)(k)(i);

546 (l) a person who ordinarily would be subject to the plumber licensure requirements
547 under this chapter when installing or repairing a water conditioner or other water treatment
548 apparatus if the conditioner or apparatus:

549 (i) meets the appropriate state construction codes or local plumbing standards; and

550 (ii) is installed or repaired under the direction of a person authorized to do the work
551 under an appropriate specialty contractor license;

552 (m) a person who ordinarily would be subject to the electrician licensure requirements
553 under this chapter when employed by:

554 (i) railroad corporations, telephone corporations or their corporate affiliates, elevator
555 contractors or constructors, or street railway systems; or

556 (ii) public service corporations, rural electrification associations, or municipal utilities
557 who generate, distribute, or sell electrical energy for light, heat, or power;

558 (n) a person involved in minor electrical work incidental to a mechanical or service

559 installation;

560 (o) a student participating in construction trade education and training programs
561 approved by the commission with the concurrence of the director under the condition that:

562 (i) all work intended as a part of a finished product on which there would normally be
563 an inspection by a building inspector is, in fact, inspected and found acceptable by a licensed
564 building inspector; and

565 (ii) a licensed contractor obtains the necessary building permits; and

566 (p) a delivery person when replacing any of the following existing equipment with a
567 new gas appliance, provided there is an existing gas shutoff valve at the appliance:

568 (i) gas range;

569 (ii) gas dryer;

570 (iii) outdoor gas barbeque; or

571 (iv) outdoor gas patio heater.

572 (2) A compliance agency as defined in Subsection 58-56-3(4) that issues a building
573 permit to a person requesting a permit as a sole owner of property referred to in Subsection
574 (1)(d) shall notify the division, in writing or through electronic transmission, of the issuance of
575 the permit.

576 Section 11. Section **58-56-3** is amended to read:

577 **58-56-3. Definitions.**

578 In addition to the definitions in Section 58-1-102, as used in this chapter:

579 ~~[(1)(a) "Adopted code" means:]~~

580 ~~[(i) (A) a new edition of or amendment to an existing code, including the standards and
581 specifications contained in the code, adopted by the Legislature under Section 58-56-7, and]~~

582 ~~[(B) administered by the division under Section 58-56-6; and]~~

583 ~~[(ii) adopted by a nationally recognized code authority, including:]~~

584 ~~[(A) a building code;]~~

585 ~~[(B) the National Electrical Code promulgated by the National Fire Protection
586 Association;]~~

587 ~~[(C) a residential one and two family dwelling code;]~~

588 ~~[(D) a plumbing code;]~~

589 ~~[(E) a mechanical code;]~~

590 ~~[(F) a fuel gas code;]~~
591 ~~[(G) an energy conservation code; and]~~
592 ~~[(H) a manufactured housing installation standard code.]~~
593 ~~[(b) "Adopted code" includes:]~~
594 ~~[(i) a fire code administered by the Fire Prevention Board under Section 53-7-204; and]~~
595 ~~[(ii) a code listed in Subsection (1)(a)(ii) that was adopted or amended by the division~~
596 ~~and Uniform Building Code Commission or the Fire Protection Board before May 12, 2009;]~~
597 (1) "Agricultural use" means a use that relates to the tilling of soil and raising of crops,
598 or keeping or raising domestic animals.
599 (2) (a) ~~[(i)]~~ "Approved code" means a code, including the standards and specifications
600 contained in the code, approved by the division under Section 58-56-4 for use by a compliance
601 agency~~[-; and]~~.
602 ~~[(ii) administered by the division under Section 58-56-6.]~~
603 (b) "Approved code" does not include ~~[an adopted]~~ a state construction code ~~[listed~~
604 ~~under Subsection (1)(b)].~~
605 ~~[(3) "Board" means the Fire Prevention Board created in Section 53-7-203.]~~
606 ~~[(4)]~~ (3) "Building" means a structure used or intended for supporting or sheltering any
607 use or occupancy and any improvements attached to it.
608 (4) "Code" means:
609 (a) a state construction code; or
610 (b) an approved code.
611 (5) "Commission" means the Uniform Building Code Commission created under this
612 chapter.
613 (6) "Compliance agency" means:
614 (a) an agency of the state or any of its political subdivisions which issues permits for
615 construction regulated under the codes;
616 (b) any other agency of the state or its political subdivisions specifically empowered to
617 enforce compliance with the codes; or
618 (c) any other state agency which chooses to enforce codes adopted under this chapter
619 by authority given the agency under a title other than Title 58, Occupations and Professions.
620 (7) "Factory built housing" means manufactured homes or mobile homes.

(8) (a) "Factory built housing set-up contractor" means an individual licensed by the division to set up or install factory built housing on a temporary or permanent basis.

(b) The scope of the work included under the license includes the placement or securing, or both placement and securing, of the factory built housing on a permanent or temporary foundation, securing the units together if required, and connection of the utilities to the factory built housing unit, but does not include site preparation, construction of a permanent foundation, and construction of utility services to the near proximity of the factory built housing unit.

(c) If a dealer is not licensed as a factory built housing set-up contractor, that individual must subcontract the connection services to individuals who are licensed by the division to perform those specific functions under Title 58, Chapter 55, Utah Construction Trades Licensing Act.

(9) "Construction code" means standards and specifications published by a nationally recognized code authority for use in circumstances described in Subsection 58-56-4(1), including:

(a) a building code;

(b) the National Electrical Code promulgated by the National Fire Protection Association;

(c) a residential one and two family dwelling code;

(d) a plumbing code;

(e) a mechanical code;

(f) a fuel gas code;

(g) an energy conservation code; and

(h) a manufactured housing installation standard code.

~~[(9)]~~ (10) "HUD code" means the National Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. Sec. 5401 et seq.

~~[(10)]~~ (11) "Legislative action" ~~[means the Legislature's]~~ includes legislation that:

~~[adoption of]~~ adopts a new [adopted] state construction code;

~~[adoption of an amendment to an existing adopted]~~ amends a state construction code; or

~~[repeal of an adopted]~~ repeals one or more provisions of a state construction code[;

652 or].

653 ~~[(d) repeal of a provision of an adopted code.]~~

654 ~~[(11)]~~ (12) "Local regulator" means ~~[each]~~ a political subdivision of the state ~~[which]~~
655 that is empowered to engage in the regulation of construction, alteration, remodeling, building,
656 repair, and other activities subject to the codes.

657 ~~[(12)]~~ (13) (a) "Manufactured home" means a transportable factory built housing unit
658 constructed on or after June 15, 1976, according to the HUD Code, in one or more sections,
659 which:

660 (i) in the traveling mode, is eight body feet or more in width or 40 body feet or more in
661 length, or when erected on site, is 400 or more square feet; and

662 (ii) is built on a permanent chassis and designed to be used as a dwelling with or
663 without a permanent foundation when connected to the required utilities, and includes the
664 plumbing, heating, air-conditioning, and electrical systems.

665 (b) Manufactured homes constructed on or after June 15, 1976, shall be identifiable by
666 the manufacturer's data plate bearing the date the unit was manufactured and a HUD label
667 attached to the exterior of the home certifying the home was manufactured to HUD standards.

668 ~~[(13)]~~ (14) "Mobile home" means a transportable factory built housing unit built prior
669 to June 15, 1976, in accordance with a state mobile home code which existed prior to the HUD
670 Code.

671 ~~[(14)]~~ (15) "Modular unit" means a structure built from sections which are
672 manufactured in accordance with the state construction ~~[standards]~~ code adopted pursuant to
673 Section 58-56-4 and transported to a building site, the purpose of which is for human
674 habitation, occupancy, or use.

675 (16) "Not for human occupancy" means use of a structure for purposes other than
676 protection or comfort of human beings, but allows people to enter the structure for:

677 (a) maintenance and repair; and

678 (b) the care of livestock, crops, or equipment intended for agricultural use which are
679 kept there.

680 ~~[(15)]~~ (17) "Opinion" means a written, nonbinding, and advisory statement issued by
681 the commission concerning an interpretation of the meaning of the codes or the application of
682 the codes in a specific circumstance issued in response to a specific request by a party to the

683 issue.

684 (18) "State construction code" means a construction code adopted by the Legislature in
685 accordance with Section 58-56-4.

686 ~~[(16)]~~ (19) "State regulator" means an agency of the state which is empowered to
687 engage in the regulation of construction, alteration, remodeling, building, repair, and other
688 activities subject to the codes adopted pursuant to this chapter.

689 Section 12. Section **58-56-4** is amended to read:

690 **58-56-4. Adoption of state construction code -- Amendments -- Approval of other**
691 **codes -- Exemptions.**

692 ~~[(1) As used in this section:]~~

693 ~~[(a) "agricultural use" means a use that relates to the tilling of soil and raising of crops;~~
694 ~~or keeping or raising domestic animals;]~~

695 ~~[(b) "not for human occupancy" means use of a structure for purposes other than~~
696 ~~protection or comfort of human beings, but allows people to enter the structure for:]~~

697 ~~[(i) maintenance and repair; and]~~

698 ~~[(ii) the care of livestock, crops, or equipment intended for agricultural use which are~~
699 ~~kept there; and]~~

700 ~~[(c) "residential area" means land that is not used for an agricultural use and is:]~~

701 ~~[(i) (A) within the boundaries of a city or town; and]~~

702 ~~[(B) less than five contiguous acres;]~~

703 ~~[(ii) (A) within a subdivision for which the county has approved a subdivision plat~~
704 ~~under Title 17, Chapter 27a, Part 6, Subdivisions; and]~~

705 ~~[(B) less than two contiguous acres; or]~~

706 ~~[(iii) not located in whole or in part in an agricultural protection area created under~~
707 ~~Title 17, Chapter 41, Agriculture and Industrial Protection Areas.]~~

708 (1) (a) A state construction code is a construction code adopted with any modifications
709 in accordance with this section that the state and each political subdivision of the state shall
710 follow.

711 ~~[(2)]~~ (b) A person shall ~~[follow an adopted code]~~ comply with the applicable state
712 construction code when:

713 ~~[(a)]~~ (i) new construction is involved; and

714 ~~[(b)]~~ (ii) the owner of an existing building, or the owner's agent, is voluntarily engaged
715 in:

716 ~~[(i)]~~ (A) the repair, renovation, remodeling, alteration, enlargement, rehabilitation,
717 conservation, or reconstruction of the building; or

718 ~~[(ii)]~~ (B) changing the character or use of the building in a manner ~~[which]~~ that
719 increases the occupancy loads, other demands, or safety risks of the building.

720 ~~[(3) (a) Beginning May 12, 2009, the board and commission shall, in accordance with~~
721 ~~Sections 53-7-204 and 58-56-5, make recommendations to the Business and Labor Interim~~
722 ~~Committee as to whether or not the Legislature should take legislative action:]~~

723 (c) On and after May 12, 2009, a state construction code is the state construction code
724 in effect on May 11, 2009, until in accordance with this section:

725 (i) a new state construction code is adopted; or

726 (ii) one or more provisions of the state construction code are amended or repealed in
727 accordance with this section.

728 (d) A provision of a state construction code may be applicable to:

729 (i) the entire state; or

730 (ii) within a county, city, or town.

731 (2) (a) The Legislature shall adopt a state construction code by enacting legislation that
732 adopts a construction code with any modifications.

733 (b) Legislation enacted under this Subsection (2) shall state that it takes effect on the
734 July 1 after the day on which the legislation is enacted, unless otherwise stated in the
735 legislation.

736 (c) Subject to Subsection (5), a state construction code adopted by the Legislature is the
737 state construction code until in accordance with this section the Legislature adopts a new state
738 construction code by:

739 (i) adopting a new state construction code in its entirety; or

740 (ii) amending or repealing one or more provisions of the state construction code.

741 (3) (a) The commission shall by no later than November 30 of each year recommend to
742 the Business and Labor Interim Committee whether the Legislature should:

743 (i) amend or repeal one or more provision of a state construction code; or

744 (ii) in a year of a regularly scheduled update of a nationally recognized code, adopt a

745 construction code with any modifications.

746 (b) The commission may recommend legislative action related to a state construction
747 code:

748 (i) on its own initiative;

749 (ii) upon the recommendation of the division; or

750 (iii) upon the receipt of a request by one of the following that the commission
751 recommend legislative action related to the state construction code:

752 (A) a local regulator;

753 (B) a state regulator;

754 (C) a state agency involved with the construction and design of a building;

755 (D) the Construction Services Commission;

756 (E) the Electrician Licensing Board;

757 (F) the Plumbers Licensing Board; or

758 (G) a recognized construction-related association.

759 ~~[(b)-(i)]~~ (4) If the Business and Labor Interim Committee decides to recommend
760 legislative action to the Legislature, the Business and Labor Interim Committee shall prepare
761 legislation for consideration by the Legislature in the next general session[;:] that if passed by
762 the Legislature would:

763 (a) adopt a new state construction code in its entirety; or

764 (b) amend or repeal one or more provisions of a state construction code.

765 ~~[(ii) The legislation described in Subsection (3)(b)(i) shall direct:]~~

766 ~~[(A) the division to administer an adopted code, excluding the fire code, in accordance~~
767 ~~with legislative action approved by the Legislature; and]~~

768 ~~[(B) the board to administer an adopted fire code in accordance with legislative action~~
769 ~~approved by the Legislature:]~~

770 ~~[(4)]~~ (5) (a) Notwithstanding Subsection (3), the commission may, in accordance with
771 Title 63G, Chapter 3, Utah Administrative Rulemaking Act, ~~[adopt an adopted code, except the~~
772 ~~fire code,]~~ amend a state construction code if the commission determines that waiting for
773 legislative action in the next general legislative session ~~[under Subsection (3)]~~ would:

774 (i) cause an imminent peril to the public health, safety, or welfare; or

775 (ii) place a person in violation of federal or other state law.

(b) If the commission ~~[adopts an adopted]~~ amends a state construction code ~~[under Subsection (4)(a)]~~ in accordance with this Subsection (5), the commission shall file with the division:

(i) the text of the ~~[adopted]~~ amendment to the state construction code; and
(ii) an analysis that includes the specific reasons and justifications for ~~[its]~~ the commission's findings.

(c) ~~[The]~~ If a state construction code is amended under this Subsection (5), the division shall ~~[, in accordance with Subsection (4)(b)]~~:

(i) publish the ~~[adopted]~~ amendment to the state construction code in accordance with Section 58-56-6; and

(ii) notify the Business and Labor Interim Committee of the ~~[adoption]~~ amendment to the state construction code, including a copy of the commission's analysis described in Subsection (5)(b).

(d) If not formally adopted by the Legislature at its next annual general session, an ~~[adopted]~~ amendment to a state construction code ~~[adopted]~~ under this Subsection ~~[(4)]~~ (5) is repealed ~~[effective at midnight on the last day that the Legislature adjourns sine die at its]~~ on the July 1, immediately following the next annual general session that follows the adoption of the amendment.

~~[(5)(a) Notwithstanding Subsection (3), the board may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt a fire code, if the board determines that waiting for legislative action in the next general legislative session under Subsection (3) would:]~~

~~[(i) cause an imminent peril to the public health, safety, or welfare; or]~~

~~[(ii) place a person in violation of federal or other state law.]~~

~~[(b) The board shall:]~~

~~[(i) publish the adopted fire code; and]~~

~~[(ii) notify the Business and Labor Interim Committee of the adoption, including a copy of an analysis by the board identifying specific reasons and justifications for its findings.]~~

~~[(c) If not formally adopted by the Legislature at its next annual general session, a fire code adopted under this Subsection (5) is repealed effective at midnight on the last day that the Legislature adjourns sine die at its next annual general session.]~~

(6) (a) The division, in consultation with the commission, ~~[has discretion to]~~ may approve, without adopting, ~~[certain]~~ one or more approved codes, including a specific ~~[editions]~~ edition of ~~[the approved codes]~~ a state construction code, for use by a compliance agency.

(b) ~~[Under]~~ If the code adopted by a compliance agency is an approved code described in Subsection (6)(a), [a] the compliance agency ~~[has the discretion to]~~ may:

(i) adopt an ordinance requiring removal, demolition, or repair of a building[; ~~according to an adopted code~~];

(ii) adopt, by ordinance or rule, a dangerous building code; or

(iii) adopt, by ordinance or rule, a building rehabilitation code.

(7) (a) Except ~~[in a residential area]~~ as provided in Subsection (7)(b), a structure used solely in conjunction with agriculture use, and not for human occupancy, is ~~[exempted]~~ exempt from the permit requirements of ~~[an adopted]~~ a state construction code.

(b) (i) ~~[Notwithstanding]~~ Unless exempted by a provision other than Subsection (7)(a), ~~[unless otherwise exempted,]~~ a plumbing, electrical, and mechanical ~~[permits]~~ permit may be required when that work is included in ~~[the]~~ a structure described in Subsection (7)(a).

(ii) Unless located in whole or in part in an agricultural protection area created under Title 17, Chapter 41, Agriculture and Industrial Protection Area, a structure described in Subsection (7)(a) is not exempt from a permit requirement if the structure is located on land that is:

(A) (I) within the boundaries of a city or town; and

(II) less than five contiguous acres; or

(B) (I) within a subdivision for which the county has approved a subdivision plat under Title 17, Chapter 27a, Part 6, Subdivisions; and

(II) less than two contiguous acres.

Section 13. Section **58-56-5** is amended to read:

58-56-5. Uniform Building Code Commission -- Composition of commission -- Commission duties and responsibilities.

(1) There is established a Uniform Building Code Commission to advise the division with respect to the division's responsibilities in administering the codes under this chapter.

(2) The commission shall be appointed by the executive director who shall submit

those nominations to the governor for confirmation or rejection. If a nominee is rejected, alternative names shall be submitted until confirmation is received. Following confirmation by the governor, the appointment is effective.

(3) The commission shall consist of eleven members who shall be appointed in accordance with the following:

(a) one member shall be from among candidates nominated by the Utah League of Cities and Towns and the Utah Association of Counties;

(b) one member shall be a licensed building inspector employed by a political subdivision of the state;

(c) one member shall be a licensed professional engineer;

(d) one member shall be a licensed architect;

(e) one member shall be a fire official;

(f) three members shall be contractors licensed by the state, of which one shall be a general contractor, one an electrical contractor, and one a plumbing contractor;

(g) two members shall be from the general public and have no affiliation with the construction industry or real estate development industry; and

(h) one member shall be from the Division of Facilities Construction Management, Department of Administrative Services.

(4) (a) Except as required by Subsection (4)(b), as terms of current commission members expire, the executive director shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(5) When a vacancy occurs in the membership for any reason, the executive director shall appoint a replacement for the unexpired term.

(6) ~~[No]~~ (a) A commission member may not serve more than two full terms~~[-and no]~~.

(b) A commission member who ceases to serve may not again serve on the commission until after the expiration of two years from the date of cessation of service.

(7) A majority of the commission members ~~[shall]~~ constitute a quorum and may act on

869 behalf of the commission.

870 (8) (a) (i) ~~[Members]~~ A member who ~~[are]~~ is not a government ~~[employees shall~~
871 ~~receive no]~~ employee may not receive compensation or benefits for ~~[their]~~ the member's
872 services, but may receive per diem and expenses incurred in the performance of the member's
873 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and
874 63A-3-107.

875 (ii) ~~[Members]~~ A member who is not a government employee may decline to receive
876 per diem and expenses for ~~[their]~~ the member's service.

877 (b) (i) ~~[State]~~ A state government officer ~~[and]~~ or employee ~~[members]~~ member who
878 ~~[do]~~ does not receive salary, per diem, or expenses from ~~[their]~~ the member's agency for ~~[their]~~
879 the member's service may receive per diem and expenses incurred in the performance of ~~[their]~~
880 the member's official duties from the commission at the rates established by the Division of
881 Finance under Sections 63A-3-106 and 63A-3-107.

882 (ii) ~~[State]~~ A state government officer ~~[and]~~ or employee ~~[members]~~ member may
883 decline to receive per diem and expenses for ~~[their]~~ the member's service.

884 (c) (i) ~~[Local]~~ A local government ~~[members]~~ member who ~~[do]~~ does not receive
885 salary, per diem, or expenses from the entity that ~~[they represent for their]~~ the member
886 represents for the member's service may receive per diem and expenses incurred in the
887 performance of ~~[their]~~ the member's official duties at the rates established by the Division of
888 Finance under Sections 63A-3-106 and 63A-3-107.

889 (ii) ~~[Local]~~ A local government ~~[members]~~ member may decline to receive per diem
890 and expenses for ~~[their]~~ the member's service.

891 (9) (a) The commission shall annually designate one of its members to serve as chair of
892 the commission.

893 (b) The division shall provide a secretary to facilitate the function of the commission
894 and to record ~~[its]~~ the commission's actions and recommendations.

895 (10) The commission shall:

896 (a) in accordance with Section 58-56-4, ~~[make a]~~ report to the Business and Labor
897 Interim Committee ~~[by no later than November 30 of each year];~~

898 ~~[(b) ensure that the report includes recommendations as to whether or not the~~
899 ~~Legislature should take legislative action, excluding any recommendations on the fire code;]~~

~~[(c)]~~ (b) offer an opinion regarding the interpretation of or the application of ~~[an adopted code, excluding the fire code, or an approved]~~ a code under this chapter if a ~~[party]~~ person submits a request for an opinion;

~~[(d)]~~ (c) act as an appeals board as provided in Section 58-56-8;

~~[(e)]~~ (d) establish advisory peer committees on either a standing or ad hoc basis to advise the commission with respect to matters related to ~~[an adopted]~~ a state construction code, ~~[excluding the fire code,]~~ or approved code, including a committee to advise the commission regarding health matters related to ~~[the]~~ a plumbing code; and

~~[(f)]~~ (e) assist the division in overseeing code-related training in accordance with Section 58-56-9.

(11) A ~~[party]~~ person requesting an opinion under Subsection (10)(c) shall submit a formal request clearly stating:

(a) the facts in question;

(b) the specific ~~[code]~~ citation at issue in a code under this chapter; and

(c) the position taken by ~~[all parties]~~ the persons involved in the facts in question.

Section 14. Section **58-56-6** is amended to read:

58-56-6. Codes -- Division duties and responsibilities.

(1) (a) The division shall administer the codes adopted or approved under Section 58-56-4 pursuant to this chapter~~[-but]~~.

(b) Notwithstanding Subsection (1)(a), the division has no responsibility ~~[or duty]~~ to:

(i) conduct inspections to determine compliance with the codes~~[-]~~;

(ii) issue permits~~[-]~~; or

(iii) assess building permit fees.

(2) ~~[Administration]~~ As part of the administration of the codes adopted or approved under Section 58-56-4 ~~[by]~~ the division shall ~~[include]~~:

(a) comply with Section 58-56-7;

~~[(a)]~~ (b) ~~[scheduling]~~ schedule appropriate hearings;

~~[(b)]~~ (c) ~~[maintaining, publishing for reference, and keeping the]~~ maintain and publish for reference:

(i) a current ~~[adopted code, excluding the fire code, and]~~ state construction code; and

(ii) any approved code; and

931 ~~[(c) publishing]~~ (d) publish the opinions of the commission with respect to
932 interpretation and application of the codes.

933 Section 15. Section ~~58-56-7~~ is amended to read:

934 **58-56-7. Code amendment process.**

935 (1) (a) ~~[Subject to Subsection (1)(b), the]~~ The division, in consultation with the
936 commission, shall establish by rule the procedure ~~[and manner]~~ under which ~~[requests for]~~ a
937 request that the commission recommend legislative action ~~[to an adopted code shall]~~ is to be:

938 (i) filed with the division;

939 (ii) reviewed by the commission; and

940 (iii) ~~[recommended]~~ addressed by the commission in the commission's report to the
941 Business and Labor Interim Committee ~~[for legislative action in accordance with]~~ required by
942 Section ~~[58-56-5]~~ 58-56-4.

943 ~~[(b) Notwithstanding Subsection (1)(a), the board shall recommend legislative action to~~
944 ~~the fire code in accordance with Section 53-7-204.]~~

945 (2) The division shall accept a request that the commission recommend legislative
946 action in accordance with Section 58-56-4, from ~~[any]~~:

947 (a) a local ~~[regulators,]~~ regulator;

948 (b) a state ~~[regulators,]~~ regulator;

949 (c) a state ~~[agencies]~~ agency involved with the construction and design of ~~[buildings,~~
950 ~~the contractors, plumbers, or electricians licensing boards, or from]~~ a building;

951 (d) the Construction Services Commission;

952 (e) the Electrician Licensing Board;

953 (f) the Plumbers Licensing Board; or

954 (g) a recognized construction-related ~~[associations a request for amendment to the~~
955 ~~codes under Section 58-56-4]~~ association.

956 ~~[(3) (a) Except in the case of the fire code, the division may make recommendations to~~
957 ~~the commission for legislative action.]~~

958 ~~[(b) Except in the case of the fire code, the commission may also consider legislative~~
959 ~~action on its own initiative.]~~

960 ~~[(4)]~~ (3) (a) ~~[On May 15 and October 15 of each calendar year, or the first government~~
961 ~~working day after those dates if either date falls on a weekend or government holiday, the~~

~~division shall convene a~~ If one or more requests are received in accordance with this section, the division shall hold at least one public hearing[;] before the commission concerning the requests [for legislative action to an adopted code in accordance with Section 58-56-4].

(b) The commission shall conduct a public hearing ~~[shall be conducted]~~ under this Subsection (3) in accordance with the rules of the commission, which may provide for coordinating the public hearing with a meeting of the commission.

~~[(5)] (c) [The commission shall, after the]~~ After a public hearing described in this Subsection ~~[(4), make]~~ (3) the commission shall prepare a written report of ~~[recommended amendments to be included]~~ its recommendations made on the basis of the public hearing. The commission shall include the information in the written report prepared under this Subsection (3)(c) in the commission's report to the Business and Labor Interim Committee under Section ~~[58-56-5]~~ 58-56-4.

~~[(6)] (4)~~ In making rules required by this chapter, the division shall comply with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 16. Section **58-56-9** is amended to read:

58-56-9. Qualifications of inspectors -- Contract for inspection services.

(1) ~~[All inspectors]~~ An inspector employed by a local regulator, state regulator, or compliance agency to enforce ~~[provisions of]~~ the codes adopted or approved pursuant to this chapter shall:

(a) (i) meet minimum qualifications as established by the division in collaboration with the commission ~~[or]~~;

(ii) be certified by a nationally recognized organization which promulgates codes adopted under this chapter[;]; or

(iii) pass an examination developed by the division in collaboration with the commission;

(b) be currently licensed by the division as meeting those minimum qualifications; and

(c) be subject to revocation or suspension of ~~[their]~~ the inspector's license or ~~[may be]~~ being placed on probation if found guilty of unlawful or unprofessional conduct.

(2) A local regulator, state regulator, or compliance agency may contract for the services of a licensed inspector not regularly employed by the regulator or agency.

(3) (a) The division shall use the ~~[monies]~~ money received ~~[in]~~ under Subsection (4) to

993 provide education;

994 (i) regarding the codes and code amendments ~~[adopted or approved]~~ that under Section
995 58-56-4 are adopted, approved, or being considered for adoption or approval; and

996 (ii) to:

997 ~~[(+)]~~ (A) building inspectors; and

998 ~~[(+)]~~ (B) individuals engaged in construction-related trades or professions.

999 (b) ~~[All funding]~~ Monies available for ~~[the]~~ a building inspector's education program
1000 ~~[shall be]~~ is nonlapsing.

1001 (4) ~~[Each]~~ (a) A compliance agency shall:

1002 (i) charge a 1% surcharge on ~~[all building permits issued]~~ a building permit it issues;
1003 and ~~[shall]~~

1004 (ii) transmit 80% of the amount collected to the division to be ~~[utilized]~~ used by the
1005 division to fulfill the requirements of Subsection (3).

1006 (b) The surcharge shall be deposited as a dedicated credit.

1007 Section 17. Section **58-56-9.3** is amended to read:

1008 **58-56-9.3. Unprofessional conduct.**

1009 Unprofessional conduct is as defined in Subsection 58-1-501(2) and includes:

1010 (1) knowingly failing to inspect or issue correction notices for code violations which
1011 when left uncorrected would constitute a hazard to the public health and safety and knowingly
1012 failing to require that correction notices are complied with as a building inspector;

1013 (2) the use of alcohol or the illegal use of drugs while performing duties as a building
1014 inspector or at any time to the extent that the inspector is physically or mentally impaired and
1015 unable to effectively perform the duties of an inspector;

1016 (3) gross negligence in the performance of official duties as a building inspector;

1017 (4) the personal use of information or knowingly revealing information to unauthorized
1018 persons when that information has been obtained by a building inspector as a result of the
1019 inspector's employment, work, or position as an inspector;

1020 (5) unlawful acts or practices which are clearly unethical under generally recognized
1021 standards of conduct of a building inspector;

1022 (6) engaging in fraud or knowingly misrepresenting a fact relating to the performance
1023 of duties and responsibilities as a building inspector;

(7) a building inspector knowingly failing to require that all plans, specifications, drawings, documents, and reports be stamped by architects, professional engineers, or both as established by law;

(8) a building inspector knowingly failing to report to the division an act or omission of a licensee under Title 58, Chapter 55, Utah Construction Trades Licensing Act, which when left uncorrected constitutes a hazard to public health and safety;

(9) a building inspector knowingly failing to report to the division unlicensed practice persons who are required to be licensed under Title 58, Chapter 55, Utah Construction Trades Licensing Act;

(10) a building inspector's approval of work which materially varies from approved documents that have been stamped by an architect, professional engineer, or both unless authorized by the licensed architect, professional engineer, or both;

(11) a building inspector failing to produce verification of current licensure and current certifications for the codes ~~[adopted under rules of the division]~~ upon request of the division, a compliance agency, or a contractor or property owner whose work is being inspected;

(12) nondelivery of goods or services by a registered dealer which constitutes a breach of contract by the dealer;

(13) the failure of a registered dealer to pay a subcontractor or supplier any amounts to which that subcontractor or supplier is legally entitled; and

(14) any other activity which is defined as unprofessional conduct by division rule in accordance with the provisions of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Section 18. Section ~~58-56-12~~ is amended to read:

58-56-12. Factory built housing units.

(1) (a) Manufactured homes constructed, sold, or set-up in the state shall be constructed in accordance with the HUD code.

(b) Manufactured homes set-up in the state shall be installed in accordance with the state construction code applicable to manufactured housing installation ~~[standard code referred to in Section 58-56-4]~~.

(c) The authority and responsibility for the issuance of building permits for the modification or set-up of manufactured homes within a political subdivision of the state shall be with the local regulator within that political subdivision.

(d) The inspection of modifications to or the set-up of manufactured homes shall be conducted and approvals given by the local regulator within the political subdivision in which the set-up takes place.

(2) (a) Mobile homes sold or set-up in the state shall be constructed in accordance with the ~~[mobile home]~~ state construction code [in existence in the state] applicable to a mobile home in which the mobile home was constructed at the time the mobile home was constructed.

(b) Mobile homes set-up in the state shall be installed in accordance with the state construction code applicable to manufactured housing installation ~~[standard code referred to in Section 58-56-4]~~.

(c) The authority and responsibility for the issuance of building permits for the modification of or set-up of mobile homes within a political subdivision of the state shall be with the local regulator within that political subdivision.

(d) The inspection of modification to or the set-up of mobile homes shall be conducted and approvals given by the local regulator within the political subdivision in which the set-up takes place.

Section 19. Section **58-56-13** is amended to read:

58-56-13. Modular units.

Modular unit construction, set-up, issuance of permits for construction or set-up, and set-up shall be in accordance with the following:

(1) construction and set-up shall be in accordance with the ~~[building standards adopted pursuant to Section 58-56-4, or equivalent standards adopted by rule]~~ state construction codes;

(2) the responsibility and authority for plan review and issuance of permits for construction, modification, or set-up shall be that of the local regulator of the political subdivision in which the modular unit is to be set-up;

(3) the inspection of the construction, modification of, or set-up of a modular unit to determine conformance with the provisions of this chapter and the issuance of approvals shall be the responsibility of the local regulator in the political subdivision in which the modular unit is to be set-up or is set-up; and

(4) nothing in this section shall preclude a local regulator from contracting with a qualified third party for the inspection or plan review provided in this section, or the state from entering into an interstate compact for third party inspection of the construction of modular

1086 units.

1087 Section 20. Section **58-56-14** is amended to read:

1088 **58-56-14. Modification of factory built housing units and modular units.**

1089 (1) ~~[Any]~~ A modification to factory built housing units shall be made in accordance
1090 with the following:

1091 (a) Prior to set-up, modification to a manufactured home or mobile home prior to
1092 installation or set-up of the unit for habitation shall be made in accordance with the HUD code.

1093 (b) After set-up:

1094 (i) modification to a manufactured home or mobile home after installation or set-up of
1095 the unit for habitation, which modification does not include the addition of any space to the
1096 existing unit or the attachment of any structure to the existing unit shall be made in accordance
1097 with the HUD code; and

1098 (ii) modification to a manufactured home or mobile home after installation or set-up of
1099 the unit for habitation, which modification includes the addition of any space to the existing
1100 unit or the attachment of any structure to the unit shall be made as follows:

1101 (A) modifications to the existing unit shall be in accordance with the HUD code; and

1102 (B) additional structure outside of the existing unit shall be in accordance with the
1103 ~~[Utah Uniform Building Standards Act]~~ this chapter.

1104 (2) ~~[Any]~~ A modification to modular housing ~~[units]~~ unit shall be made in accordance
1105 with the ~~[Utah Uniform Building Standards Act]~~ this chapter.

1106 Section 21. Section **58-56-15** is amended to read:

1107 **58-56-15. Factory built housing and modular units -- Division responsibility --**
1108 **Unlawful conduct.**

1109 (1) The division:

1110 (a) shall maintain current information on the HUD code and the state construction code
1111 relevant to manufactured housing installation ~~[standard code referred to in Section 58-56-4]~~
1112 and will provide at reasonable cost the information to compliance agencies, local regulators, or
1113 state regulators requesting such information;

1114 (b) shall provide qualified personnel to advise compliance agencies, local regulators,
1115 and state regulators regarding the standards for construction and set-up, construction and set-up
1116 inspection, and additions or modifications to factory built housing;

1117 (c) is designated as the state administrative agency for purposes under the provisions of
1118 the HUD code;

1119 (d) may inspect the work of modular unit manufacturers in the state during the
1120 construction process to determine compliance of the manufacturer with ~~[the Utah Uniform~~
1121 ~~Building Standard Act]~~ this chapter for those units to be installed within the state and upon a
1122 finding of substantive deficiency, issue a corrective order to the manufacturer with a copy to
1123 the local regulator in the state's political subdivision in which the unit is to be installed;

1124 (e) shall have rights of entry and inspection as specified under the HUD Code; and

1125 (f) shall implement by rule as required by the HUD Code:

1126 (i) a dispute resolution program; and

1127 (ii) a continuing education requirement for manufactured housing installation
1128 contractors.

1129 (2) The division may assess civil penalties payable to the state for violation of the
1130 HUD Code in an amount identical to those set forth in Section 611 of the National
1131 Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Sec. 5410.

1132 (3) The state may impose criminal sanctions for violations of the HUD Code identical
1133 to those set forth in Section 611 of the National Manufactured Housing Construction and
1134 Safety Standards Act of 1974, 42 U.S.C. Sec. 5410, provided that if the criminal sanction is a
1135 fine, the fine shall be payable to the state.

1136 Section 22. Section ~~58-56-17.5~~ is amended to read:

1137 **~~58-56-17.5. Factory Built Housing Fees Restricted Account.~~**

1138 (1) There is created within the General Fund a restricted account known as "Factory
1139 Built Housing Fees Account."

1140 (2) (a) The restricted account shall be funded from the fees the dealer collects and
1141 remits to the division for each factory built home the dealer sells as provided in Subsection
1142 58-56-17(1).

1143 (b) The division shall deposit all monies collected under Subsection 58-56-17(1) in the
1144 restricted account.

1145 (c) The restricted account shall be used to pay for education and enforcement of ~~[the~~
1146 ~~Uniform Building Standards Act]~~ this chapter, including investigations and administrative
1147 actions and the funding of additional employees to the amount of the legislative appropriation.

1148 (d) The restricted account may accrue interest which shall be deposited into the
1149 restricted account.

1150 Section 23. Section **58-56-20** is amended to read:

1151 **58-56-20. Standardized building permit content.**

1152 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1153 division shall adopt a standardized building permit form by rule.

1154 (2) (a) The standardized building permit form created under Subsection (1) shall
1155 include fields for indicating the following information:

1156 (i) the name and address of the owner of or contractor for the project;

1157 (ii) (A) the address of the project; or

1158 (B) a general description of the project; and

1159 (iii) whether the permit applicant is an original contractor or owner-builder.

1160 (b) The standardized building permit form created under Subsection (1) may include
1161 any other information the division considers useful.

1162 (3) (a) A compliance agency shall issue a permit for construction only on a
1163 standardized building permit form approved by the division.

1164 (b) A permit for construction issued by a compliance agency under Subsection (3)(a)
1165 shall print the standardized building permit number assigned under Section 58-56-19 in the
1166 upper right-hand corner of the building permit form in at least 12-point type.

1167 (c) (i) Except as provided in Subsection (3)(c)(ii), a compliance agency may not issue a
1168 permit for construction if the information required by Subsection (2)(a) is not completed on the
1169 building permit form.

1170 (ii) If a compliance agency does not issue a separate permit for different aspects of the
1171 same project, the compliance agency may issue a permit for construction without the
1172 information required by Subsection (2)(a)(iii).

1173 (d) A compliance agency may require additional information for the issuance of a
1174 permit for construction.

1175 (4) A local regulator issuing a single-family residential building permit application
1176 shall include in the application or attach to the building permit the following notice
1177 prominently placed in at least 14-point font: "Decisions relative to this application are subject
1178 to review by the chief executive officer of the municipal or county entity issuing the

1179 single-family residential building permit and appeal under the International Residential Code as
1180 adopted by the Legislature."

1181 Section 24. Section **58-56-21** is amended to read:

1182 **58-56-21. Review of building inspection.**

1183 (1) As used in this section, "International Residential Code" [~~or "IRC"~~] means the
1184 International Residential Code [as] adopted [~~in this chapter and by rule~~] as a state construction
1185 code under Section 58-56-4.

1186 (2) Subject to Subsection (3), a city or county shall, by ordinance, provide for review of
1187 an inspection conducted by the city's or county's building inspector for a single-family
1188 residential building permit.

1189 (3) Upon request by a person seeking a single-family residential building permit, a
1190 chief executive officer of the municipal or county issuing the single-family residential building
1191 permit, or the chief executive officer's designee, shall, with reasonable diligence, review an
1192 inspection described in Subsection (2) to determine whether the inspection constitutes a fair
1193 administration of the building code.

1194 (4) A review described in this section:

1195 (a) is separate and unrelated to an appeal under the [~~IRC~~] International Residential
1196 Code;

1197 (b) may not be used to review a matter that may be brought by appeal under the [~~IRC~~]
1198 International Residential Code;

1199 (c) may not result in the waiver or modification of an [~~IRC~~] International Residential
1200 Code requirement or standard;

1201 (d) may not conflict with an appeal, or the result of an appeal, under the [~~IRC~~]
1202 International Residential Code; and

1203 (e) does not prohibit a person from bringing an appeal under the [~~IRC~~] International
1204 Residential Code.

1205 (5) A person who seeks a review described in this section may not be prohibited by
1206 preclusion, estoppel, or otherwise from raising an issue or bringing a claim in an appeal under
1207 the [~~IRC~~] International Residential Code on the grounds that the person raised the issue or
1208 brought the claim in the review described in this section.

1209 Section 25. **Repealer.**

1210 This bill repeals:

1211 Section **53-7-205, State fire code amendments -- Board duties and responsibilities.**